

ARTICLE 10: To see if the Town will vote to amend the Zoning Bylaw in order to establish Inclusionary Housing regulations, as follows:

**Part I:** Delete Section VII.K, Density Bonus for Affordable Housing, and replace it with the following:

**K. INCLUSIONARY HOUSING**

1. Purposes and Intent. The purposes of the Inclusionary Housing Bylaw are to:
  - a. Create and preserve housing affordable to low- or moderate-income households.
  - b. Encourage developers to include affordable housing in all new residential and mixed-use developments.
  - c. Promote geographic distribution of affordable housing units throughout the town and avoid over-concentration.
  - d. Assist the Town in creating units eligible for the Chapter 40B Subsidized Housing Inventory through means other than a comprehensive permit.
2. Applicability.
  - a. This section applies to all developments involving the creation of five (5) or more dwelling units or five (5) or more lots for residential use in the following zoning districts: Rural A, Rural B, Residence A, Residence B-1, Residence B-2, Multi-Family or Apartment.
  - b. Developments shall not be segmented to avoid compliance with the Inclusionary Housing requirement. For purposes of this section, “segmentation” shall mean divisions of land that would cumulatively result in an increase by five or more residential lots above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four months prior to the application. Where such segmentation occurs, it shall be subject to the Inclusionary Housing requirement. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, G.L. c.41, Sections 81K-81GG, or any division of land under G.L. c.41, Section 81P, into lots for residential use.
  - c. Exemption: This Section does not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or act of God; provided, however, no rehabilitation nor repair shall increase the density, bulk or size of any such building or structure which previously existed prior to the damage or destruction thereof without triggering the requirements of this Section.
3. Definitions.

For the purpose of administering this Section, certain terms and words are herein defined as follows:

**Affordable Housing Restriction:** A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Shrewsbury, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of G.L. c.184, Sections 26 or 31-32.

**Affordable Housing Trust Fund:** A fund account established by the Town for the purpose of creating or preserving affordable housing in the Town of Shrewsbury.

**Affordable Housing Unit:** A dwelling unit that is affordable to and occupied by a low- or moderate-income household and meets the requirements of the Local Initiative Program for inclusion on the Chapter 40B Subsidized Housing Inventory. For purposes of the Inclusionary Housing Bylaw, a living unit in an Assisted Living Residence shall not be considered a dwelling unit.

**Area Median Income:** means the median family income for the Worcester metropolitan area or other metropolitan area that includes the Town of Shrewsbury, as defined in the annual schedule of low- and moderate-income limits published by the U.S. Department of Housing and Urban Development, and adjusted for household size.

**Inclusion Unit:** an affordable housing unit built on the same locus as a development with market-rate units under Section VII.K of this Bylaw.

**Local Initiative Program:** A program administered by the Massachusetts Department of Housing and Community Development (DHCD) pursuant to 760 CMR 45.00 to develop and implement local housing initiatives that produce low- and moderate-income housing.

**Low- or Moderate-Income Household:** A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan area that includes the Town of Shrewsbury, as determined annually by the United States Department of Housing and Urban Development (HUD).

**Market-Rate Dwelling Units:** all dwelling units in a development subject to this Section that are not affordable housing units as defined herein.

**Maximum Affordable Purchase Price or Rent:** For homeownership units, a purchase price that is affordable to a low- or moderate-income household paying no more than 30% of gross monthly income for a mortgage payment, property taxes, insurance and condominium fees, where applicable; and for rental units, a monthly rent that is affordable to a low- or moderate-income household paying no more than 30% of its gross monthly income for rent and utilities. The household income used to compute the maximum affordable purchase price or rent shall be adjusted for household size, considering the household size for which a proposed affordable unit would be suitable

under guidelines of the Local Initiative Program or, where no such guidelines exist, under regulations adopted by the Planning Board.

Qualified Household: A low- or moderate-income household that purchases or rents an affordable housing unit as its principal residence.

Subsidized Housing Inventory: The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

4. Methods of Providing Affordable Housing. Any development not exempted herein shall provide affordable housing through one or more of the following methods, or any combination thereof.
  - a. Inclusion Units: affordable housing units constructed on the locus of the development. This is the preferred method of complying with the Inclusionary Housing requirement.
  - b. Alternative Methods: The Planning Board may grant a Special Permit to allow alternative methods of compliance in accordance with Section K(6).
5. Development Regulations for Inclusion Units

Including affordable units in new development serves an important public purpose and meets the growth management objectives of the Shrewsbury Master Plan. The Town of Shrewsbury has valid planning reasons to establish use, dimensional and density regulations that apply particularly to developments with Inclusion Units: to promote efficient use of land, to encourage mixed-income neighborhoods, to achieve a diverse and balanced community with housing available for households of all income levels as a matter of basic fairness, to provide reasonable cost offsets to developers who provide new affordable units, and to increase the supply of affordable housing at a rate sustainable for the Town. In addition, the Town has an interest in assuring that all residential development assists with meeting state requirements for the provision of affordable housing and that such housing is geographically distributed throughout the community. Furthermore, the Town has an interest in assuring that suitable mechanisms exist to preserve the affordability of housing built for low- or moderate-income people, and that affordable housing is made available to qualified purchasers or qualified renters in a manner that complies with federal and state fair housing laws. Toward these ends, the requirements for a development with Inclusion Units shall be as follows.

- a. Permitted Uses
  - 1) In the Rural A, Rural B, Residence A and Residence B-1 Districts, the following are permitted uses in a development with Inclusion Units:
    - a) Detached single-family dwelling.

- b) Two-family dwelling, provided that two-family units comprise not more than 20% percent of the total number of dwelling units in the development and the two-family dwellings comply with the location, comparability and design requirements set forth in K(5)(f) and K(5)(g) below.
- 2) In the Residence B-2, Multi-Family and Apartment Districts, the permitted uses in a development with Inclusion Units shall be as set forth in Section VI Table I.
- b. Uses Allowed by Special Permit
  - 1) The Planning Board may grant a Special Permit to increase the percentage of two-family dwellings in a development with Inclusion Units in the Rural A, Rural B, Residence A or Residence B-1 District, up to a maximum of 25%.
  - 2) A residential use requiring a Special Permit under Section VI Table I shall also require a Special Permit for a development with Inclusion Units.
- c. Dimensional and Density Requirements. The requirements of Section VII Table II and any notes thereto shall apply to a development with Inclusion Units except as modified by the provisions of Table K-A.
- d. Affordable Housing Requirement

A development with Inclusion Units shall provide affordable housing in accordance with the minimum requirements below. Where the requirement results in a fraction of a lot or dwelling unit, the applicant may round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units [see Section 6(a)(3)] proportionate to the percentage of the unit required.

  - 1) In the Rural A, Rural B and Residence A Districts: a minimum of 10%.
  - 2) In the Residence B-1 and B-2 Districts: a minimum of 12.5%.
  - 3) In the Multi-Family District: a minimum of 12.5% for developments of single-family or two-family dwellings, and a minimum of 15% for MF-1 or MF-2 developments.
  - 4) In the Apartment District: a minimum of 25%.
  - 5) In any district where Senior Housing is permitted or allowed by Special Permit, a minimum of 15% for Senior Housing developments.
- e. Application Procedures
  - 1) A subdivision of land shall be submitted to the Planning Board in accordance with the Planning Board's Rules and Regulations for the Subdivision of Land.

- 2) A development that does not involve a subdivision of land shall be submitted pursuant to G.L. c.41, Section 81P or Section VII-F of this Bylaw, as applicable.
  - 3) For MF-1, MF-2, or Senior Housing, the Special Permit application procedures, review and decision criteria shall be in accordance with Section IX of this Bylaw, as applicable. The Planning Board shall be the Special Permit Granting Authority for special permits issued under this Subsection K.
  - 4) The Planning Board may adopt supplemental submission requirements and procedures for any development with Inclusion Units. Such procedures may include but are not limited to submission of a Site Plan under Section VII-F.1 for the purpose of determining compliance with Sections K(5)(f) and K(5)(g) below, and a development phasing plan to determine compliance with Section K(5)(h).
- f. Location of Inclusion Units. Inclusion Units shall be dispersed throughout a development. The applicant may locate Inclusion Units in two-family dwellings in lieu of designating detached single-family dwellings as affordable housing, provided that the two-family dwellings are not concentrated in one part of the development and they conform to Section K(5)(g) below. For MF-1 or MF-2 multi-family developments, Inclusion Units shall be dispersed throughout the buildings and the floors of each building such that no single building or floor therein has a disproportionate percentage of Inclusion Units. For Senior Housing, location requirements for Inclusion Units shall be based on the residential use types provided in the development.
- g. Comparability of Inclusion Units
- 1) Inclusion Units shall be comparable to market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems. To be comparable in exterior appearance, single-family or two-family Inclusion Units shall be designed to comply with the following requirements, as applicable:
    - a) When the Inclusion Units are detached single-family dwellings, they shall be similar in size to market-rate detached single-family dwellings in the development unless the Planning Board grants a Special Permit to authorize smaller units.
    - b) Inclusion Units may be in two-family dwellings in which each unit has a ground-level floor and the units are separated by a common wall, with an at-grade entrance to one unit on the front façade and at-grade entrance to the second unit on the side, such that when viewed from the road, the dwelling appears to be a detached single-family dwelling. When a two-family dwelling provides Inclusion Units, the building shall be at least equal in gross floor area to a typical market-rate, detached single-family dwelling in the development in order to achieve general comparability of scale and built form.

- 2) Inclusion Units may differ from Market-Rate Units in gross floor area provided that the bedroom mix in Inclusion Units shall be generally proportional to the bedroom mix in Market-Rate Units unless the Planning Board grants a Special Permit to authorize a different bedroom mix for the Inclusion Units.

h. Timing of Construction

Unless a different schedule is approved by the Planning Board, Inclusion Units shall be constructed in proportion to market-rate units. Compliance with this requirement shall be determined on the basis of building permits issued for Inclusion Units and market-rate units, or lot releases, as applicable. Inclusion Units shall not be the last units to be built in any development covered by this Section.

i. Selection of Qualified Purchasers or Renters

- 1) The selection of qualified purchasers or renters shall be carried out under an affirmative marketing plan approved by the Planning Board. The affirmative marketing plan shall describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen.
- 2) The applicant may sell Inclusion Units to the Town of Shrewsbury, the Shrewsbury Housing Authority, or to any non-profit development organization that serves the Town of Shrewsbury, in order that such entity may carry out the steps required to market the Inclusion Units and manage the selection of buyers.

j. Preservation of Affordability

- 1) Any Inclusion Unit shall be subject to an affordable housing restriction that contains limitations on use, resale and rents. The affordable housing restriction shall meet the requirements of the Town and the DHCD Local Initiative Program, and shall be in force in perpetuity or for the maximum period allowed by law.
- 2) The affordable housing restriction shall be enforceable under the provisions of G.L. c.184, Sections 26 or 31-32, as amended.
- 3) The developer shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify Inclusion Units for listing on the Chapter 40B Subsidized Housing Inventory.
- 4) No building permit shall be issued for a rental development with Inclusion Units until a regulatory agreement signed by the applicant, the Town and DHCD has been recorded at the Registry of Deeds.
- 5) A Certificate of Occupancy for a homeownership Inclusion Unit shall not be issued until the applicant submits documentation to the Building Inspector that an affordable housing restriction has been approved by the Planning Board and signed by the Inclusion Unit homebuyer.

6. Regulations for Alternative Methods of Providing Affordable Units

- a. In its discretion, the Planning Board may grant a Special Permit for an alternative method listed below, subject to the following requirements:
  - 1) Off-Site Units. The applicant may propose to provide equivalent affordable units in another location in Shrewsbury. The off-site affordable units may include existing dwelling units acquired and renovated, as necessary, or new-construction units, in either case sold to qualified purchasers or conveyed to the Shrewsbury Housing Authority or another non-profit development organization for affordable rental housing. The location and quality of off-site affordable units shall be subject to approval by the Planning Board during the development review process. A schedule for providing the off-site units shall be incorporated into the Special Permit through conditions imposed by the Planning Board. Off-site affordable units shall comply with the comparability requirements for Inclusion Units under K(5)(g) and the Preservation of Affordability requirements of Section K(5)(j).
  - 2) Land Donation. The applicant may propose to donate buildable land to the Town of Shrewsbury, the Shrewsbury Housing Authority, or a non-profit housing development organization serving the Town of Shrewsbury, subject to approval by the Planning Board. Any land donated under the provisions of this section shall be subject to a restriction assuring its use for affordable housing. Prior to approving a land donation as satisfaction of the Inclusionary Housing requirement, the Planning Board shall require the applicant to submit an appraisal or other evidence to show that the land is suitable for an equivalent number of affordable housing units. Donations of land in lieu of creating affordable units shall be made prior to the issuance of any building permits for the development unless the Planning Board approves a different schedule.
  - 3) Fee in Lieu of Units. The applicant may propose to pay a fee in lieu of creating affordable units, as follows:
    - a) In any development of 10 or more units, for each affordable unit provided through this method, the cash payment per unit shall be equal to the difference between the median single-family home or condominium sale price in Shrewsbury for the most recent three fiscal years, as determined by the Board of Assessors, and the price affordable to a qualified purchaser as determined by the Planning Board's regulations and any applicable guidelines of the Massachusetts Department of Housing and Community Development (DHCD), Local Initiative Program (LIP).
    - b) In a development of less than 10 dwelling units, the cash payment per affordable unit shall be 50% of the fee per unit calculated in accordance with Subsection 3(a) above.

- c) If the Planning Board issues a Special Permit to authorize a fee in lieu of units, the fee shall be paid to the Town's Affordable Housing Trust Fund prior to the issuance of any building permits for the development.
  - b. Special Permit application procedures, review and decision criteria shall be in accordance with Section IX of this Bylaw.
  - c. Any development that provides affordable units through an alternative method shall conform to the requirements of Section VI, Use Regulations and Section VII Table II. The provisions of Table K-A apply only to a development with Inclusion Units.
7. Exemption
- a. The Planning Board may grant a Special Permit to exempt a development from the Inclusionary Housing requirements of this Bylaw, provided that:
    - 1) No lot in the development shall have less than 1.5 times the minimum frontage nor less than two (2) times the minimum lot area for the district in which the lot is located. For lots divided by a zoning boundary line, the minimum lot area for the district with the larger minimum lot area shall be used in determining the applicable minimum lot area. For lots located in the Rural A, Rural B or Residence A District, at least 75% of the minimum lot area required for zoning compliance, or a minimum of 30,000 square feet, shall be contiguous upland.
    - 2) All other dimensional requirements of the district in which the lot is located shall apply.
    - 3) For an application to exempt rear lots created under Section VII.B(7), no lot shall have less than four (4) times the minimum lot area for the district in which the lot is located, nor less than 100 feet of frontage.
  - b. Special Permit application procedures, review and decision criteria shall be in accordance with Section IX of this Bylaw.
8. Severability. If any portion of this Bylaw is declared to be invalid, the remainder shall continue to be in full force and effect.



TABLE K-A: Compensatory Dimensional and Density Regulations for Developments with Inclusion Units<sup>(1)</sup>

	Minimum Requirements						Open Space % Lot Area	Maximum Lot Coverage
	Minimum Lot Area	Minimum Frontage	Front	Side <sup>(2)</sup>	Rear	Add'l Area Per Unit <sup>(3)</sup>		
<b>Rural A, Rural B</b>								
Single-Family	19,000	125	40	25	50	---	---	21%
Two-Family <sup>(4)</sup>	22,000	125	40	30	50	---	---	21%
<b>Residence A</b>								
Single-Family	19,000	125	30	20	40	---	---	31%
Two-Family <sup>(4)</sup>	22,000	125	30	30	40	---	---	31%
<b>Residence B-1</b>								
Single-Family	12,500	100	30	10	40	---	---	
Two-Family <sup>(4)</sup>	16,000	100	25	10	40	---	---	31%
<b>Residence B-2</b>								
Single-Family	12,500	100	30	10	40	---	---	31%
Two-Family <sup>(4)</sup>	16,000	125	30	10	40	---	---	31%
<b>Multi-Family</b>								
Single-Family	12,500	100	30	10	40	---	---	31%
Two-Family <sup>(4)</sup>	16,000	100	30	10	40	---	---	31%
MF-1 <sup>(5)</sup>	16,000	50	40	25	25	3,900	50%	---
MF-2	160,000	50	40	50	50	See <sup>(5)</sup>	50%	---
<b>Apartment</b>								

---In accordance with Table II---

FOOTNOTES TO TABLE K-A

- (1) The requirements of Table K-A apply to any development that provides Inclusion Units. However, where Table K-A is silent on a requirement set forth in Section VII Table II and its associated footnotes, said Table II shall govern.
- (2) The side yard setback shall be reduced to zero for zero-lot-line two-family dwellings.
- (3) Additional area required per dwelling unit in excess of two.
- (4) If the required percentage of affordable units results in an odd number and the inclusion units are in two-family dwellings, the number shall be increased by one affordable unit in order to provide for the creation of a two-family dwelling with two affordable units.
- (5) Subject to Section VI Table I, Footnote 5.
- (6) Subject to Section VI Table I, Footnote 6.

**Part II:** Amend Section VI, Table I, by inserting a new footnote (28) next to the following uses:

One-family detached dwelling

Two-family dwelling

Senior Housing

MF-1

MF-2

and adding the following footnote to Footnotes to Table I:

(28) Subject to Section VII, Section K, if five or more dwelling units or lots.

**Part III:** Amend Section VII, Table II, by inserting a new footnote (12) next to the Rural A, Rural B, Residence A, Residence B-1, Residence B-2, Multi-Family and Apartment Districts, said footnote to read as follows:

(12) For developments subject to Section VII.K, see Table K-A, Compensatory Table of Dimensional and Density Regulations for Developments with Inclusion Units.